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IN THE

Supreme Court of the United States

OCTOBER TERM, 1917.

No. 337

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY, MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, NATIONAL LIFE INSURANCE COMPANY, PENN MUTUAL LIFE INSURANCE COMPANY, and PHOENIX MUTUAL LIFE INSURANCE COMPANY (original Plaintiffs); and AETNA LIFE INSURANCE COMPANY, THE PRUDENTIAL LIFE INSURANCE COMPANY OF AMERICA, THE UNION MUTUAL LIFE INSURANCE COMPANY (Plaintiffs Added by Stipulation),

Appellants,

v.

FRANK C. MOORE, Comptroller of the State of New York,

Appellee.

APPEAL FROM THE NEW YORK COURT OF APPEALS

PETITION OF THE STATE OF CONNECTICUT FOR LEAVE TO INTERVENE AND PARTICIPATE IN ANY FURTHER PROCEEDINGS

WILLIAM L. HADDEN,
Attorney General.

JACK RUBIN,
Assistant Attorney General.

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It has come to the attention of the Attorney General of the State of Connecticut that the Appellants in the above-entitled case have filed a petition for rehearing. The State of Connecticut, through its Attorney General, therefore, respectfully requests leave to intervene in this case and to participate in any further proceedings in this Court.

The order of the Supreme Court of the United States, embodied in the majority opinion, was that "The judgment of the Court of Appeals of New York is affirmed except as to issues specifically reserved." Admittedly one of the issues specifically reserved was the "problem of what another state than New York may do". However, the practical effect of this order is to force Appellants to pay over to New York certain funds.

Three of appellant companies are chartered by Connecticut and as to these Appellants the funds are held in and protected by Connecticut. Under the principles of escheat heretofore recognized by this Court, Connecticut and not New York has the right to escheat funds held in and protected by Connecticut.

Connecticut has passed legislation designed to escheat certain unclaimed funds, including funds held by life insurance companies. Attached hereto as Appendix A is a copy of the Connecticut statute, effective October 1, 1947, which was passed by the 1947 General Assembly. It is our contention that the State of Connecticut under this statute has proper and superior claim to the very same funds which under this decision New York will receive. These unclaimed funds in Connecticut are held in and protected by Connecticut and have been accumulated over the years; and, once escheated by New York, these funds will not be available to Connecticut because the same property cannot be escheated twice; or if the State of Connecticut insists upon its claimed rights under its statutes and is upheld in its State Courts, it will subject the insurance companies, innocent stakeholders, to double liability. Should the State of Connecticut refuse to sub-

ject the insurance companies to double liability, the State of Connecticut would in effect have lost a contended right without an opportunity to be heard.

Connecticut respectfuly requests that this, its petition to intervene and participate, be granted and that in further proceedings in this case this Court determine whether Connecticut or New York has the superior claim to escheat as to these funds held in and protected by Connecticut.

Respectfully submitted,

WILLIAM L. HADDEN,
Attorney General.

JACK RUBIN,
Assistant Attorney General.

APPENDIX A

Sections 34i-41i Inclusive, of the 1947 Supplement to the General Statutes of Connecticut, Effective October 1, 1947 (Public Act No. 508, 1947)

Sec. 34i. Definitions. As used in sections 35i to 41i, inclusive, the word "person" shall include each individual, partnership, unincorporated association, limited partnership, partnership association, company, corporation and any other natural or artificial entity of any kind; the word "property" shall include only all moneys, choses in actions, debts, dues and demands, as well as interest and accretions thereon accrued between the time of the institution of the proceedings under said sections and the actual distribution thereof.

Sec. 35i. Escheat of property unclaimed or unused for seven years. Any property, the owner of which has not exercised any right of ownership or possession thereof or claim thereto for a period of seven successive years and the whereabouts of such person being unknown to the person having custody or possession thereof, shall escheat to the state. The person having possession or custody of such escheated property shall, within a period of six months after such escheat, file with the secretary of the state a statement under oath containing the name of the last-known owner of such property, his last-known address, a description thereof and an estimate as to its value and any other information which may assist said secretary in determining the whereabouts of such owner. Wilful failure to file such report shall be a misdemeanor and subject to a fine of not more than five hundred dollars or to imprisonment of not more than sixty days or both.

Sec. 36i. Sale of escheated property. When any property other than moneys shall escheat to the state in accordance with the provisions of section 35i, the state treasurer shall cause such escheated property to be sold at public sale for the best price obtainable and the proceeds thereof shall be held subject to the provisions of sections 34i to 41i, inclusive, in lieu of such escheated property.

Sec. 37i. Petition in case of interest in escheated property. Any party in interest who has not had actual knowledge or notice of such proceedings, or who is aggrieved thereby, may, prior to the date of the final settlement thereof or within but not after seven years from said date, file his petition with the superior court in the county in which he resides, setting forth his interest in the escheated property and praying for the payment or delivery to him of the property or the proceeds thereof. A copy of such petition shall be served upon the attorney general within ten days after its filing, and thereupon the court shall, upon reasonable notice to the attorney general and the petitioner, hear such petition and the proofs offered in support of and against the petition, and, if the claim of the petitioner is allowed, the state treasurer shall issue to the petitioner a warrant upon the treasury for the amount which has been paid into the state treasury, after deducting all costs and expenses arising from the escheat proceedings and from the proceedings instituted by such petitioner.

Sec. 38i. Appeal. Any person aggrieved by any order allowing or dismissing such petition may appeal to the supreme court of errors.

Sec. 39i. Examination of witnesses. The state treasurer shall have power to summon any person alleged to have knowledge touching any of the facts relating to such escheat to appear before him, and he may examine such persons upon their oaths or affirmations as to any fact touching

such escheat, and shall permit all parties claiming to have any interest in such proceedings to appear therein, and to produce and examine such witnesses.

Sec. 40i. Action against custodian of property. The state treasurer shall have the right to institute an action with respect to the subject matter of sections 34i to 41i, inclusive, against any person having possession or custody of any property alleged to be the subject of escheat.

Sec. 41i. Application of provisions. Sections 34i to 41i, inclusive, shall not apply to property the escheat of which is otherwise provided for by any statute enacted prior to October 1, 1947, and shall not apply to the proceeds of life insurance policies awaiting the happening of a contingency upon the happening of which such proceeds shall become payable, or surrender values of policies, or portions of premiums held to the credit of policyholders by life insurance companies having no capital stock, or property as to which any person has had the continued uninterrupted adverse use or enjoyment under claim of right for a period of fifteen years prior to October 1, 1947.